
IN THE UNITED STATE DISTRICT COURT

STATE OF UTAH

CINDY MOLINAR,

Plaintiff,

vs.

**GAYLA PRESSET, and CARBON
EMERY HOUSING AUTHORITY,**

Defendants.

REPORT & RECOMMENDATION

Case No. 2:25-cv-00357

District Court Judge Tena Campbell

Magistrate Judge Dustin B. Pead

The case is before the undersigned pursuant to a 28 U.S.C. § 636(b)(1)(B) referral from District Court Judge Tena Campbell. (ECF No. 6, Notice of Non-Consent.)

On May 30, 2025, the court issued an order outlining the deficiencies of Plaintiff Cindy Molinar’s (“Plaintiff”) pleading and ordered her to file an amended complaint no later than June 20, 2025. (ECF No. 7, Memorandum Decision and Order.) That date has passed and Plaintiff has not filed a motion for an extension of time or an amended complaint. As a result, the court recommends denial of Plaintiff’s Motion for Leave to Proceed In Forma Pauperis (ECF No. 2) and dismissal of Plaintiff’s action.

STANDARD OF REVIEW

Pursuant to Federal Rule of Civil Procedure 41(b), “[if] the plaintiff fails to prosecute or to comply with these rules or a court order, a defendant may move to dismiss the action or any claim against it.” “Although the language of Rule 41(b) requires that the defendant file a motion to dismiss, the Rule has long been interpreted to permit courts [as here] to dismiss actions *sua*

sponte for a plaintiff's failure to . . . comply with the rules of civil procedure or court's orders. *Olsen v. Mapes*, 333 F.3d 1199, 1205 n.3 (10th Cir. 2003); *see also Nasious v. Two Unknown B.I.C.E. Agents*, 492 F.3d 1158, 1161 (10th Cir. 2007) (*citing Petty v. Manpower Inc.*, 591 F.2d 615, 617 (10th Cir. 1979) ("a district court may, without abusing its discretion, enter such an order without attention to any particular procedures"))).

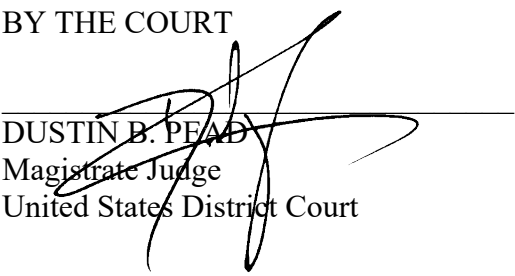
RECOMMENDATION

Plaintiff failed to comply with the Court's Order requiring her to file an amended complaint no later than June 20, 2025. Federal Rule 41(b) allows for dismissal of an action based on a plaintiff's failure to comply with court orders. Fed. R. Civ. P. 41(b). Further, in failing to file an amended complaint, Plaintiff has not cured the defects of her original pleading as identified in the court's May 30, 2025 Order. (ECF No. 7) (the complaint "fails to make any specific, intelligible allegations about each Defendant's alleged actions and how they harmed [Plaintiff]"). Accordingly, for these reasons, the Court RECOMMENDS that Plaintiff's Motion for Leave to Proceed In Forma Pauperis be denied (ECF No. 2) and Plaintiff's case be dismissed without prejudice.

Consistent therewith, the Clerk's Office is directed to send copies of this Report and Recommendation to all parties who are hereby notified of their right to object. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). The parties must file any objection to this Report and Recommendation within fourteen (14) days of service. Failure to object may constitute waiver of the objections upon subsequent review.

DATED this 24th day of June, 2025.

BY THE COURT



DUSTIN B. PEAB
Magistrate Judge
United States District Court